

**REMARKS**

Claims 1, 26-29, and 31 are pending in the application. Claims 1 and 26-29 were previously pending and claim 31 has been added by this amendment. Support for new claim 31 may be found in the application as filed at page 1, lines 33-36 and in U.S.S.N. 07/525,357, the priority document of May 16, 1990, at page 2, lines 9-10.

The instant application was recently involved in Interference No. 105,508 (RES) with U.S. Patent No. 5,266,683 (The '683 patent). The count of this interference read as follows:

1. A purified BMP-8 protein or an isolated OP-2 protein comprising the sequence described by residues 1-402 of Seq. ID No. 28 of Patent 5,266,683 which protein induces new bone growth.

Seq. ID No. 28 corresponds to human BMP-8. On May 21, 2007, the Board of Patent Appeals and Interferences ruled that the instant application was entitled to claims corresponding to this count (i.e., claims to human BMP-8) and that the '683 patent was not entitled to claims corresponding to this count.

Accordingly, Applicants have added claim 31 to more clearly define the scope of their claimed invention to include human BMP-8 protein. Copies of the Declaration of Interference and Judgment for Applicants are attached, along with copies of the '683 patent claims that corresponded to the interference count.


Applicants respectfully request consideration and allowance of the claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 22, 2007

By:   
Elizabeth E. Mathiesen  
Reg. No. 54,696

Attachments:

- Declaration of Interference 105,508 (RES);
- Copies of claims involved in Interference 105,508 (RES); and
- Judgment of Interference 105,508 (RES).